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## How to Harvest Enrichment Of Land Surrounding Parks

THE CONCEPT of land ownership has a very different legal history and moral basis from that of the possession of tangible objects. Land can be transformed, but is never created by human effort, for "real property" is a place rather than a thing. In early English law, from which our own is derived, the title to all land was fixed in the king, who delegated the right to occupy and use different holdings to his lords, and they in turn to their vassals.

Even in our own time, the title to land is a parceling of the sovereignty of the state through some kind of contract with its citizens. When federal troops defeated Indian tribes, the federal domain for which titles could be distributed by the U.S. law was enlarged. Land ownership was then just what the sovereign power would protect on behalf of the holders of the titles.

The development of the United States as a continental nation stamped its character on our land laws, which were designed to encourage the exploitation and settlement of the empty spaces. In the process, we became accustomed to thinking of land ownership as if it were the same as personal property, even up to the unhindered right to destroy its values for posterity or for the community.

THIS CONCEPT has long been subject to various regulations, for example, local zoning laws. But the central principle has been to allow maximum profits on changes in land use and land values, subject only to specific restraints on the most intolerable abuses. Indeed, quirks in the income tax laws put further pressure on land conversion

through the special treatment of capital gains and on the depreciation of improvements.

Many tax specialists complain against the use of taxes for regulatory rather than income-raising purposes. However, the tax structure has introduced too many distortions into the market for real property to escape a careful reappraisal. Rep. Paul N. McCloskey Jr. (R-Calif.) has made the most thoughtful critique on this issue, which he believes can be dealt with in the framework of our present constitutional system.

In a remarkable address at San Mateo College, he pointed out the impossible conflict between the aims of saving open spaces for the community's benefit and the generation of income for local welfare needs through property taxes. In fact, when the community buys land for a park, it enriches the owners of surrounding lands and increases the costs of further moves to conserve open space.

McCloskey therefore seeks a way to restore the equities when the value of land is inflated through a change in its use. He is particularly concerned about the inflation that results from community investment in roads, parks, airports, etc.

In principle, these adjustments would eventually take the form of increased assessments. These invariably lag behind the needs and expenditures of the community, and the gist of these proposals is to recover a fair part of the capital gain as well when land is converted from agriculture to apartments.

McCloskey's approach is a cautious one. He would set up a National Land Use Commission to zone areas for urban, agricultural, recreational and wilderness uses. Whenever the allowed use of a given parcel was changed, or when federal projects affected its value, the commission would file a lien for 75 per cent of the gain.

The lien would be suspended, however, until the property was sold or developed. This would encourage the preservation of open spaces and inhibits the ballooning of prices of land marked for parks. Conversely, the liens would build a trust to purchase new lands for parks and similar uses.

My only criticism of McCloskey's proposal concerns the machinery for the liens, which is possibly cumbersome and probably avoidable. Let us simply increase the tax on capital gains on land values from its present 25 per cent (nominal maximum) to 75 per cent or even 100 per cent less monetary inflation. This would also be collectible on the development as well as on the sale of the land.

It would then be reduced in proportion to the showing by the taxpayer that the gain was the result of factors other than charges on local, state or federal budgets.

Unlike speculation in commodities and securities, land speculation does much obvious social harm. Unless some real good that this analysis has overlooked can be demonstrated it ought to be damped, and the funds that now go into it diverted into venture capital for innovation and production of real goods. This would help the orderly development of the land for ourselves and our posterity.

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